

**ASSEMBLY BILL**

**No. 233**

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**Introduced by Assembly Member Lopez**

February 4, 2015

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An act to amend Sections 8220, 8221.5, 8222, 8227.3, 8261, 8263, 8265, 8269, 8273, and 8385 of, to amend the heading of Article 16.5 (commencing with Section 8385) of Chapter 2 of Part 6 of Division 1 of Title 1 of, and to repeal Section 8225 of, the Education Code, relating to child care.

LEGISLATIVE COUNSEL’S DIGEST

AB 233, as introduced, Lopez. Child care and development services: alternative payment programs: reimbursement rates.

The Child Care and Development Services Act has a purpose of providing a comprehensive, coordinated, and cost-effective system of child care and development services for children from infancy to 13 years of age and their parents, including a full range of supervision, health, and support services through full- and part-time programs. The act requires the State Department of Education to contract with local contracting agencies for alternative payment programs that are intended to allow for maximum parental choice in child care. The act, to provide maximum parental choice, authorizes alternative payment programs to include certain things, including a subsidy that follows the family from one provider to another, as provided.

This bill would, to provide maximum parental choice and access, authorize alternative payment programs to also include an eligibility determination process of not less than once every 12 months.

The act requires certain child care providers to submit to the alternative payment program a monthly attendance record or invoice,

as provided, and requires the record or invoice to be maintained by the child care provider in the unaltered original form in which it was created. The act requires the alternative payment program to reimburse child care providers based on specified criteria, including based on hours of service. The act prohibits contractors from being required to track absences.

This bill would delete the requirement that the child care provider maintain the record or invoice in the unaltered original form in which it was created. The bill would delete the requirement that alternative payment programs reimburse child care providers based on the specified criteria. The bill would delete the prohibition on contractors from being required to track absences.

The act requires an alternative payment program to reimburse a licensed child care provider for child care of a subsidized child based on the rate charged by the provider to nonsubsidized families, if any, for the same services, or the rates established by the providers for prospective nonsubsidized families. The act requires a licensed child care provider to submit to the alternative payment program a copy of the provider's rate sheet listing the rate charged, among other things.

This bill would instead require an alternative payment program to reimburse a licensed child care provider for child care of a subsidized child based on the rate charged by the provider to nonsubsidized families. The bill would delete the requirement for the licensed child care provider to submit to the alternative payment program a copy of the provider's rate sheet, among other things.

The act requires an alternative payment program to verify provider rates no less frequently than once a year, as provided, and requires the department to develop regulations for addressing discrepancies in provider rate levels identified through this verification process.

This bill would delete these requirements and would require an alternative payment program to develop a rate verification process.

The act requires, when making referrals, every agency operating both a direct service program and an alternative payment program to provide at least 4 referrals, as provided, to a family.

This bill would delete this requirement.

The act authorizes alternative payment programs and providers operating or providing services to maintain records in electronic format only if the original documents were created in electronic format.

This bill would authorize alternative payment programs and providers to maintain records in electronic format regardless of whether they were

created in electronic format. The bill would require alternative payment programs to create and maintain specified records, including parental job verification records.

The act requires the Superintendent of Public Instruction to adopt rules and regulations that do certain things, including provide for a contract monitoring system, specify adequate standards of agency performance, set forth standards for department site visits to contracting agencies, and authorize the department to develop a process that requires every contracting agency to recompete for continued funding no less frequently than every 5 years.

This bill would delete the requirement that the Superintendent adopt rules and regulations relating to the above provisions.

The act provides that a family enrolled in a state or federally funded child care and development program whose services would otherwise be terminated, as provided, may continue to receive child development services, as provided.

This bill would instead require that a family enrolled in a state or federally funded child care and development program to be considered eligible for services for 12 months from time of initial, or annual, eligibility determination.

Existing law provides that, if the basis of need as stated on the application for services is seeking employment, the parent's period of eligibility for child care and development services is limited to 60 working days during the contract period. The act authorizes the Superintendent to extend this period for an additional 60 working days, as provided.

This bill would delete the Superintendent's authority to make this extension.

The act requires the Superintendent to implement a plan that, among other things, establishes reasonable standards and assigned reimbursement rates, as provided, and requires the Superintendent to confer with applicant agencies when establishing the standards and rates.

This bill would require the applicant agencies to establish, as applicable, full-time, part-time, and hourly rates and to establish reimbursement rates that best meet the needs of the community, as provided.

The act authorizes the Superintendent to establish regulations concerning conditions of service and hours of enrollment for children in the programs.

This bill would delete this authorization, among other changes.

The act requires the Superintendent to adopt rules, regulations, and guidelines to facilitate the funding and reimbursement procedures.

This bill would require the Superintendent to adopt these rules, regulations, and guidelines to facilitate the funding and reimbursement procedures for contractors operating centers, family child care homes, or both, as well as for contractors who do not operate a center, family child care home, or both. The bill would require the contractors who do not operate a center, family child care home, or both to establish a specified rate reimbursement structure to meet a certified need for child care, as provided.

The act requires the Superintendent to establish a fee schedule for families using preschool and child care and development services.

This bill would require the amount of the family fee to be deducted from the reimbursement to a provider.

The act requires the department, in consultation with the State Department of Social Services and with fraud investigation experts, as provided, to perform an error rate study to estimate the percentage of errors relating to child care and development services. The act requires the department to develop recommendations for the prevention and elimination of child care fraud and programmatic errors and the identification and collection of child care overpayments. The act requires the department to report its recommendations to the respective policy and fiscal committees of the Legislature by April 1, 2005.

This bill would delete these requirements.

This bill would also make conforming and nonsubstantive changes.

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 SECTION 1. Section 8220 of the Education Code is amended
- 2 to read:
- 3 8220. (a) Upon the approval of the State Department of
- 4 Education, funds appropriated for the purposes of this chapter may
- 5 be used for alternative payment programs to allow for maximum
- 6 parental choice. Various methods of reimbursement for parental
- 7 costs for child care may be utilized. All payment arrangements
- 8 shall conform to the eligibility criteria and the parent fee schedule
- 9 established pursuant to Sections 8263 and 8265.

1 To

2 (b) To provide for maximum parental choice *and access*,  
3 alternative payment programs may include the following:

4 (1) *An eligibility determination process of not less than once*  
5 *every 12 months.*

6 ~~(a)~~

7 (2) A subsidy that follows the family from one provider to  
8 another within a given alternative payment program.

9 ~~(b)~~

10 (3) Choices, ~~whenever~~ *when* possible, among hours of service  
11 including before and after school, evenings, weekends, and split  
12 shifts.

13 ~~(c)~~

14 (4) Child care and development services according to parental  
15 choice, including use of family day care homes, general center  
16 based programs, and other state-funded programs to the extent that  
17 those programs exist in the general service area and are in  
18 conformity with the purposes and applicable laws for which those  
19 programs were established, but excluding state preschool programs.

20 SEC. 2. Section 8221.5 of the Education Code is amended to  
21 read:

22 8221.5. (a) Child care providers authorized to provide services  
23 pursuant to this article shall submit to the alternative payment  
24 program a monthly attendance record or invoice for each child  
25 who received services that, at a minimum, documents the dates  
26 and actual times care was provided each day, including the time  
27 the child entered and the time the child left care each day. The  
28 information shall be documented on a daily basis.

29 (b) The monthly attendance record or invoice shall, at a  
30 minimum, be signed by the parent or guardian of the child receiving  
31 services and the child care provider once per month to attest that  
32 the child's attendance is accurately reflected. The verification of  
33 attendance shall be made by signature at the end of each month of  
34 care and under penalty of perjury by both the parent or guardian  
35 of the child receiving services and the child care provider.

36 (c) The monthly attendance record or invoice shall be maintained  
37 by the child care provider ~~in the unaltered original format in which~~  
38 ~~it was created, which may be in paper form or electronic format.~~

39 (d) The alternative payment program shall accept the monthly  
40 attendance record or invoice as documentation of the hours of care

1 provided if the attendance record or invoice includes adequate  
2 information documented on a daily basis, including, at a minimum,  
3 the dates and actual times care was provided each day, including  
4 the time the child entered and the time the child left care each day.  
5 ~~The alternative payment program shall reimburse child care~~  
6 ~~providers based upon the following criteria:~~

7 ~~(1) The hours of service provided that are broadly consistent~~  
8 ~~with certified hours of need.~~

9 ~~(2) For families with variable schedules, the actual days and~~  
10 ~~hours of attendance, up to the maximum certified hours.~~

11 ~~(3) For license-exempt providers that provide part-time services,~~  
12 ~~the actual days and hours of attendance, up to the maximum~~  
13 ~~certified hours.~~

14 ~~(e) For purposes of reimbursement to providers through an~~  
15 ~~alternative payment program, contractors shall not be required to~~  
16 ~~track absences.~~

17 ~~(f)~~

18 ~~(e)~~ For purposes of this section, a monthly attendance record  
19 or invoice is defined as documentation that includes, at a minimum,  
20 the name of the child receiving services, the dates and actual times  
21 care was provided each day, including the time the child entered  
22 and the time the child left care each day, that is signed under  
23 penalty of perjury by both the parent or guardian and the child care  
24 provider, attesting that the information provided is accurate.

25 ~~(g) This section shall become operative on July 1, 2014.~~

26 SEC. 3. Section 8222 of the Education Code is amended to  
27 read:

28 8222. (a) Payments made by alternative payment programs  
29 shall not exceed the applicable market rate ceiling. Alternative  
30 payment programs may expend more than the standard  
31 reimbursement rate for a particular child. However, the aggregate  
32 payments for services purchased by the agency during the contract  
33 year shall not exceed the assigned reimbursable amount as  
34 established by the contract for the year. ~~No~~ *An agency may shall*  
35 *not* make payments in excess of the rate charged to full-cost  
36 families. This section does not preclude alternative payment  
37 programs from using the average daily enrollment adjustment  
38 factor for children with exceptional needs as provided in Section  
39 8265.5.

1 (b) Alternative payment programs shall reimburse licensed child  
2 care providers in accordance with a biennial market rate survey  
3 pursuant to Section 8447, at a rate not to exceed the ceilings  
4 established pursuant to Section 8357.

5 (c) An alternative payment program shall reimburse a licensed  
6 provider for child care of a subsidized child based on the rate  
7 charged by the provider to nonsubsidized families, if any, for the  
8 same services, or the rates established by the provider for  
9 prospective nonsubsidized families. A licensed child care provider  
10 shall submit to the alternative payment program a copy of the  
11 provider's rate sheet listing the rates charged, and the provider's  
12 discount or scholarship policies, if any, along with a statement  
13 signed by the provider confirming that the rates charged for a  
14 subsidized child are equal to or less than the rates charged for a  
15 nonsubsidized child. *families.*

16 (d) ~~An alternative payment program shall maintain a copy of~~  
17 ~~the rate sheet and the confirmation statement.~~

18 (e)

19 (d) A licensed child care provider shall submit to the local  
20 resource and referral agency a copy of the provider's rate sheet  
21 listing rates charged, and the provider's discount or scholarship  
22 policies, if any, and shall self-certify that the information is correct.

23 (f) ~~Each~~

24 (e) A licensed child care provider may alter rate levels for  
25 subsidized children once per year and shall provide the alternative  
26 payment program and resource and referral agency with the updated  
27 information pursuant to subdivisions (c) and (e), to reflect any  
28 changes.

29 (g)

30 (f) A licensed child care provider shall post in a prominent  
31 location adjacent to the provider's license at the child care facility  
32 the provider's rates and discounts or scholarship policies, if any.

33 (h) ~~An alternative payment program shall verify provider rates~~  
34 ~~no less frequently than once a year by randomly selecting 10~~  
35 ~~percent of licensed child care providers serving subsidized families.~~  
36 ~~The purpose of this verification process is to confirm that rates~~  
37 ~~reported to the alternative payment programs reasonably correspond~~  
38 ~~to those reported to the resource and referral agency and the rates~~  
39 ~~actually charged to nonsubsidized families for equivalent levels~~  
40 ~~of services. It is the intent of the Legislature that the privacy of~~

1 ~~nonsubsidized families shall be protected in implementing this~~  
2 ~~subdivision.~~

3 ~~(i) The department shall develop regulations for addressing~~  
4 ~~discrepancies in the provider rate levels identified through the rate~~  
5 ~~verification process in subdivision (h).~~

6 ~~(g) An alternative payment program shall develop a rate~~  
7 ~~verification process.~~

8 SEC. 4. Section 8225 of the Education Code is repealed.

9 ~~8225. When making referrals, every agency operating both a~~  
10 ~~direct service program and an alternative payment program shall~~  
11 ~~provide at least four referrals, at least one of which shall be a~~  
12 ~~provider over which the agency has no fiscal or operational control,~~  
13 ~~as well as information to a family on the family's ability to choose~~  
14 ~~a license exempt provider.~~

15 SEC. 5. Section 8227.3 of the Education Code is amended to  
16 read:

17 8227.3. (a) Alternative payment programs and providers  
18 operating or providing services pursuant to this article may  
19 maintain records in electronic format only if the original documents  
20 were created in electronic format. Records that may be created in  
21 electronic format and maintained electronically include, but are  
22 not limited to, the following: *format.*

23 ~~(1) Child immunization records.~~

24 ~~(2) Parental job verification records.~~

25 ~~(3) Parent income verification.~~

26 ~~(4) Parent school or training verifications and attendance~~  
27 ~~records.~~

28 ~~(b) Alternative payment programs shall create and maintain~~  
29 ~~the following records:~~

30 ~~(1) Parental job verification records.~~

31 ~~(2) Parent income verification.~~

32 ~~(3) Parent school or training verifications and attendance~~  
33 ~~records.~~

34 ~~(b)~~

35 ~~(c) Pursuant to Section 33421, the original records shall be~~  
36 ~~retained by each contractor for at least five years, or, where an~~  
37 ~~audit has been requested by a state agency, until the date the audit~~  
38 ~~is resolved, whichever is longer.~~

39 ~~(e) Nothing in this~~



1     ~~(d) This section requires~~ *does not require* an alternative payment  
2     program or provider to create records electronically.

3     SEC. 6. Section 8261 of the Education Code is amended to  
4     read:

5     8261. (a) The Superintendent shall adopt rules and regulations  
6     pursuant to this chapter. The rules and regulations shall include,  
7     but not be limited to, provisions ~~which~~ *that* do all of the following:

8     (1) Provide clear guidelines for the selection of agencies when  
9     child development contracts are let, including, but not limited to,  
10    specification that ~~any~~ *an* agency headquartered in the proposed  
11    service area on January 1, 1985, will be given priority for a new  
12    contract in that area, unless the department makes a written  
13    determination that (A) the agency is not able to deliver the level  
14    of services specified in the request for proposal, or (B) the  
15    department has notified the agency that it is not in compliance  
16    with the terms of its contract.

17    ~~(2) Provide for a contract monitoring system to ensure that~~  
18    ~~agencies expend funds received pursuant to this chapter in~~  
19    ~~accordance with the provisions of their contracts.~~

20    ~~(3) Specify adequate standards of agency performance.~~

21    ~~(4)~~

22    (2) Establish reporting requirements for service reports,  
23    including provisions for varying the frequency with which these  
24    reports are to be submitted on the basis of agency performance.

25    ~~(5)~~

26    (3) Specify standards for withholding payments to agencies that  
27    fail to submit required fiscal reports.

28    ~~(6) Set forth standards for department site visits to contracting~~  
29    ~~agencies, including, but not limited to, specification as to the~~  
30    ~~purpose of the visits, the personnel that will perform these visits,~~  
31    ~~and the frequency of these visits which shall be as frequently as~~  
32    ~~staff and budget resources permit. By September 1 of each year,~~  
33    ~~the department shall report to the Senate Education, Senate Health~~  
34    ~~and Human Services, Assembly Education, and Assembly Human~~  
35    ~~Services Committees on the number of visits conducted during~~  
36    ~~the previous fiscal year pursuant to this paragraph.~~

37    ~~(7) Authorize the department to develop a process that requires~~  
38    ~~every contracting agency to recompile for continued funding no~~  
39    ~~less frequently than every five years.~~

1 (b) The Superintendent shall consult with the State Department  
2 of Social Services with respect to rules and regulations adopted  
3 relative to the disbursal of federal funds under Title XX of the  
4 federal Social Security Act.

5 (c) For purposes of expediting the implementation of state or  
6 federal legislation to expand child care services, the Superintendent  
7 may waive (1) the regulations regarding the point qualifications  
8 for, and the process and scoring of, interviews of contract  
9 applicants pursuant to Section 18002 of Title 5 of the California  
10 Code of Regulations, or (2) the time limitations for scheduling and  
11 notification of appeal hearings and their results pursuant to Section  
12 18003 of Title 5 of the California Code of Regulations. The  
13 Superintendent shall ensure that the appeal hearings provided for  
14 in Section 18003 of Title 5 of the California Code of Regulations  
15 are conducted in a timely manner.

16 (d) (1) Child care and development programs operated under  
17 contract from funds made available pursuant to the federal Child  
18 Care and Development Fund, shall be administered according to  
19 Division 19 (commencing with Section 17906) of Chapter 1 of  
20 Title 5 of the California Code of Regulations, unless provisions  
21 of these regulations conflict with federal regulations. If state and  
22 federal regulations conflict, the federal regulations shall apply  
23 unless a waiver of federal regulations is authorized.

24 (2) For purposes of this section, “Child Care and Development  
25 Fund” has the same meaning as in Section 98.2 of Title 45 of the  
26 Code of Federal Regulations.

27 SEC. 7. Section 8263 of the Education Code is amended to  
28 read:

29 8263. (a) The Superintendent shall adopt rules and regulations  
30 on eligibility, enrollment, and priority of services needed to  
31 implement this chapter. In order to be eligible for federal and state  
32 subsidized child development services, families shall meet at least  
33 one requirement in each of the following areas:

34 (1) A family is (A) a current aid recipient, (B) income eligible,  
35 (C) homeless, or (D) one whose children are recipients of protective  
36 services, or whose children have been identified as being abused,  
37 neglected, or exploited, or at risk of being abused, neglected, or  
38 exploited.

39 (2) A family needs the child care services (A) because the child  
40 is identified by a legal, medical, or social services agency, or

1 emergency shelter as (i) a recipient of protective services or (ii)  
2 being neglected, abused, or exploited, or at risk of neglect, abuse,  
3 or exploitation, or (B) because the parents are (i) engaged in  
4 vocational training leading directly to a recognized trade,  
5 paraprofession, or profession, (ii) employed or seeking  
6 employment, (iii) seeking permanent housing for family stability,  
7 or (iv) incapacitated.

8 (b) Except as provided in Article 15.5 (commencing with Section  
9 8350), priority for federal and state subsidized child development  
10 services is as follows:

11 (1) (A) First priority shall be given to neglected or abused  
12 children who are recipients of child protective services, or children  
13 who are at risk of being neglected or abused, upon written referral  
14 from a legal, medical, or social services agency. If an agency is  
15 unable to enroll a child in the first priority category, the agency  
16 shall refer the family to local resource and referral services to  
17 locate services for the child.

18 (B) A family who is receiving child care on the basis of being  
19 a child at risk of abuse, neglect, or exploitation, as defined in  
20 subdivision (k) of Section 8208, is eligible to receive services  
21 pursuant to subparagraph (A) for up to three months, unless the  
22 family becomes eligible pursuant to subparagraph (C).

23 (C) A family may receive child care services for up to 12 months  
24 on the basis of a certification by the county child welfare agency  
25 that child care services continue to be necessary or, if the child is  
26 receiving child protective services during that period of time, and  
27 the family requires child care and remains otherwise eligible. This  
28 time limit does not apply if the family's child care referral is  
29 recertified by the county child welfare agency.

30 (2) Second priority shall be given equally to eligible families,  
31 regardless of the number of parents in the home, who are income  
32 eligible. Within this priority, families with the lowest gross monthly  
33 income in relation to family size, as determined by a schedule  
34 adopted by the Superintendent, shall be admitted first. If two or  
35 more families are in the same priority in relation to income, the  
36 family that has a child with exceptional needs shall be admitted  
37 first. If there is no family of the same priority with a child with  
38 exceptional needs, the same priority family that has been on the  
39 waiting list for the longest time shall be admitted first. For purposes

1 of determining order of admission, the grants of public assistance  
2 recipients shall be counted as income.

3 (3) The Superintendent shall set criteria for, and may grant  
4 specific waivers of, the priorities established in this subdivision  
5 for agencies that wish to serve specific populations, including  
6 children with exceptional needs or children of prisoners. These  
7 new waivers shall not include proposals to avoid appropriate fee  
8 schedules or admit ineligible families, but may include proposals  
9 to accept members of special populations in other than strict income  
10 order, as long as appropriate fees are paid.

11 (c) Notwithstanding any other law, in order to promote  
12 continuity of services, a family enrolled in a state or federally  
13 funded child care and development program ~~whose services would~~  
14 ~~otherwise be terminated because the family no longer meets the~~  
15 ~~program income, eligibility, or need criteria may continue to~~  
16 ~~receive child development services in another state or federally~~  
17 ~~funded child care and development program if the contractor is~~  
18 ~~able to transfer the family's enrollment to another program for~~  
19 ~~which the family is eligible before the date of termination of~~  
20 ~~services or to exchange the family's existing enrollment with the~~  
21 ~~enrollment of a family in another program, provided that both~~  
22 ~~families satisfy the eligibility requirements for the program in~~  
23 ~~which they are being enrolled shall be considered eligible for~~  
24 ~~services for 12 months from time of initial, or annual, eligibility~~  
25 ~~determination.~~ The transfer of enrollment may be to another  
26 program within the same administrative agency or to another  
27 agency that administers state or federally funded child care and  
28 development programs.

29 (d) ~~In order to promote continuity of services, the Superintendent~~  
30 ~~may extend the 60-working-day period specified in subdivision~~  
31 ~~(a) of Section 18086.5 of Title 5 of the California Code of~~  
32 ~~Regulations for an additional 60 working days if he or she~~  
33 ~~determines that opportunities for employment have diminished to~~  
34 ~~the degree that one or both parents cannot reasonably be expected~~  
35 ~~to find employment within 60 working days and granting the~~  
36 ~~extension is in the public interest. The scope of extensions granted~~  
37 ~~pursuant to this subdivision shall be limited to the necessary~~  
38 ~~geographic areas and affected persons, which shall be described~~  
39 ~~in the Superintendent's order granting the extension. It is the intent~~  
40 ~~of the Legislature that extensions granted pursuant to this~~

1 ~~subdivision improve services in areas with high unemployment~~  
2 ~~rates and areas with disproportionately high numbers of seasonal~~  
3 ~~agricultural jobs.~~

4 ~~(e)~~

5 (d) A physical examination and evaluation, including  
6 age-appropriate immunization, shall be required before, or within  
7 six weeks of, enrollment. A standard, rule, or regulation shall not  
8 require medical examination or immunization for admission to a  
9 child care and development program of a child whose parent or  
10 guardian files a letter with the governing board of the child care  
11 and development program stating that the medical examination or  
12 immunization is contrary to his or her religious beliefs, or provide  
13 for the exclusion of a child from the program because of a parent  
14 or guardian having filed the letter. However, if there is good cause  
15 to believe that a child is suffering from a recognized contagious  
16 or infectious disease, the child shall be temporarily excluded from  
17 the program until the governing board of the child care and  
18 development program is satisfied that the child is not suffering  
19 from that contagious or infectious disease.

20 ~~(f)~~

21 (e) Regulations formulated and promulgated pursuant to this  
22 section shall include the recommendations of the State Department  
23 of Health Care Services relative to health care screening and the  
24 provision of health care services. The Superintendent shall seek  
25 the advice and assistance of these health authorities in situations  
26 where service under this chapter includes or requires care of  
27 children who are ill or children with exceptional needs.

28 ~~(g)~~

29 (f) The Superintendent shall establish guidelines for the  
30 collection of employer-sponsored child care benefit payments from  
31 a parent whose child receives subsidized child care and  
32 development services. These guidelines shall provide for the  
33 collection of the full amount of the benefit payment, but not to  
34 exceed the actual cost of child care and development services  
35 provided, notwithstanding the applicable fee based on the fee  
36 schedule.

37 ~~(h)~~

38 (g) The Superintendent shall establish guidelines according to  
39 which the director or a duly authorized representative of the child

1 care and development program will certify children as eligible for  
2 state reimbursement pursuant to this section.

3 (i)

4 (h) Public funds shall not be paid directly or indirectly to an  
5 agency that does not pay at least the minimum wage to each of its  
6 employees.

7 SEC. 8. Section 8265 of the Education Code is amended to  
8 read:

9 8265. (a) The Superintendent shall implement a plan that  
10 establishes reasonable standards and assigned reimbursement rates,  
11 which vary with the length of the program year and the hours of  
12 service.

13 (1) Parent fees shall be used to pay reasonable and necessary  
14 costs for providing additional services.

15 (2) When establishing standards and assigned reimbursement  
16 rates, the Superintendent shall confer with applicant agencies.  
17 *Applicant agencies shall comply with both of the following:*

18 (A) *Applicant agencies shall establish, as applicable, full-time,*  
19 *part-time, and hourly rates.*

20 (B) *Applicant agencies shall establish reimbursement rates that*  
21 *best meet the needs of the community, that are consistent with*  
22 *certified hour of care, and that do not exceed market rate ceilings.*

23 (3) The reimbursement system, including standards and rates,  
24 shall be submitted to the Joint Legislative Budget Committee.

25 ~~(4) The Superintendent may establish any regulations he or she~~  
26 ~~deems advisable concerning conditions of service and hours of~~  
27 ~~enrollment for children in the programs.~~

28 (b) The standard reimbursement rate shall be nine thousand  
29 twenty-four dollars and seventy-five cents (\$9,024.75) per unit of  
30 average daily enrollment for a 250-day year, and commencing  
31 with the 2015–16 fiscal year, shall be increased by the  
32 cost-of-living adjustment granted by the Legislature annually  
33 pursuant to Section 42238.15.

34 ~~(c) The plan shall require agencies having an assigned~~  
35 ~~reimbursement rate above the current year standard reimbursement~~  
36 ~~rate to reduce costs on an incremental basis to achieve the standard~~  
37 ~~reimbursement rate.~~

38 ~~(d)~~

39 (c) The plan shall provide for adjusting reimbursement on a  
40 case-by-case basis, in order to maintain service levels for agencies

1 currently at a rate less than the standard reimbursement rate.  
2 Assigned reimbursement rates shall be increased only on the basis  
3 of one or more of the following:

- 4 (1) Loss of program resources from other sources.
- 5 (2) Need of an agency to pay the same child care rates as those  
6 prevailing in the local community.
- 7 (3) Increased costs directly attributable to new or different  
8 regulations.

9 (4) (A) Documented increased costs necessary to maintain the  
10 prior year's level of service and ensure the continuation of  
11 threatened programs.

12 ~~Child~~

13 (B) *Child* care agencies funded at the lowest rates shall be given  
14 first priority for increases.

15 (e)

16 (d) The plan shall provide for expansion of child development  
17 programs at no more than the standard reimbursement rate for that  
18 fiscal year.

19 (f)

20 (e) The Superintendent may reduce the percentage of reduction  
21 for a public agency that satisfies any of the following:

- 22 (1) Serves more than 400 children.
- 23 (2) Has in effect a collective bargaining agreement.
- 24 (3) Has other extenuating circumstances that apply, as  
25 determined by the Superintendent.

26 SEC. 9. Section 8269 of the Education Code is amended to  
27 read:

28 8269. (a) The Superintendent of ~~Public Instruction~~ shall adopt  
29 rules, regulations, and guidelines to facilitate the funding and  
30 reimbursement procedures, *for contractors operating centers,*  
31 *family child care homes, or both,* required by this chapter.

32 (b) (1) *The Superintendent shall adopt rules, regulations, and*  
33 *guidelines to facilitate the funding and reimbursement procedures*  
34 *for contractors that do not operate a center, a family child care*  
35 *home, or both.*

36 (2) *Contractors not operating a center, a family child care home,*  
37 *or both, shall establish, as applicable, a full-time, part-time, and*  
38 *hourly rate reimbursement structure to meet a certified need for*  
39 *child care.*

1     (3) *Reimbursement to the provider shall be the amount the*  
2     *provider charges unsubsidized families for the same hours of child*  
3     *care, or the maximum subsidy amount.*

4     SEC. 10. Section 8273 of the Education Code is amended to  
5     read:

6     8273. (a) The Superintendent shall establish a fee schedule  
7     for families using preschool and child care and development  
8     services pursuant to this chapter, including families receiving  
9     services pursuant to paragraph (1) of subdivision (b) of Section  
10    8263. It is the intent of the Legislature that the new fee schedule  
11    shall be simple and easy to implement.

12    (b) The family fee schedule shall retain a flat monthly fee per  
13    family. The schedule shall differentiate between fees for part-time  
14    care and full-time care.

15    (c) *The amount of a family fee shall be deducted from the*  
16    *reimbursement to a provider.*

17    ~~(e)~~

18    (d) Using the most recently approved family fee schedule  
19    pursuant to subdivision (f) of Section 8447, families shall be  
20    assessed a flat monthly fee based on income, certified family need  
21    for full-time or part-time care services, and enrollment, and shall  
22    not be based on actual attendance. ~~No~~A recalculation of a family  
23    fee shall *not* occur if attendance varies from enrollment unless a  
24    change in need for care is assessed.

25    ~~(d)~~

26    (e) The Superintendent shall design the new family fee schedule  
27    based on the state median income data that was in use for the  
28    2007–08 fiscal year, adjusted for family size. The revised family  
29    fee schedule shall begin at income levels at which families  
30    currently begin paying fees. The revised fees shall not exceed 10  
31    percent of the family’s monthly income. The Superintendent shall  
32    first submit the adjusted fee schedule to the Department of Finance  
33    for approval.

34    ~~(e)~~

35    (f) The income of a recipient of federal supplemental security  
36    income benefits pursuant to Title XVI of the federal Social Security  
37    Act (42 U.S.C. Sec. 1381 et seq.) and state supplemental program  
38    benefits pursuant to Title XVI of the federal Social Security Act  
39    (42 U.S.C. Sec. 1381 et seq.) and Chapter 3 (commencing with  
40    Section 12000) of Part 3 of Division 9 of the Welfare and



1 Institutions Code shall not be included in total countable income  
2 for purposes of determining the amount of the family fee.

3 ~~(f)~~

4 (g) Family fees shall be assessed at initial enrollment and  
5 reassessed at update of certification or recertification.

6 ~~(g)~~

7 (h) It is the intent of the Legislature that the new family fees  
8 shall be cost neutral to the state and generate roughly the same  
9 amount of revenue as was generated under the previous family fee  
10 schedule.

11 SEC. 11. The heading of Article 16.5 (commencing with  
12 Section 8385) of Chapter 2 of Part 6 of Division 1 of Title 1 of the  
13 Education Code is amended to read:

14  
15 Article 16.5. ~~Fraud And Overpayments~~ *Best Practices*

16  
17 SEC. 12. Section 8385 of the Education Code is amended to  
18 read:

19 ~~8385. (a) (1) The department, in consultation with the State~~  
20 ~~Department of Social Services, county fraud investigators, and~~  
21 ~~other fraud investigation experts, shall perform an error rate study~~  
22 ~~to estimate the percentage of errors, including, but not limited to,~~  
23 ~~overpayments and fraud, in determinations of eligibility, the need~~  
24 ~~for child care pursuant to paragraph (2) of subdivision (a) of~~  
25 ~~Section 8263, family fees, and reimbursement payments to child~~  
26 ~~care providers, including, but not limited to, authorized hours of~~  
27 ~~care and the use of adjustment factors, in programs operated~~  
28 ~~pursuant to Article 3 (commencing with Section 8220) and Article~~  
29 ~~15.5 (commencing with Section 8350). The study shall include,~~  
30 ~~but not be limited to, an analysis of a statistically valid, random,~~  
31 ~~sample of family files and reimbursement payments that have been~~  
32 ~~processed over a specified time. Each payment from the sample~~  
33 ~~shall be audited to determine whether it was correctly paid or paid~~  
34 ~~in error. Those payments identified as being paid in error shall be~~  
35 ~~classified based on the type of the error that occurred, including,~~  
36 ~~but not limited to, administrative errors, overpayment caused by~~  
37 ~~providers, overpayments caused by parents, provider fraud, and~~  
38 ~~beneficiary fraud.~~

39 (2) ~~In conducting the compliance reviews required by regulations~~  
40 ~~of the Superintendent pursuant to Section 8261 for programs~~

1 operated pursuant to Article 8 (commencing with Section 8240);  
2 the department shall survey a statistically valid sample of files for  
3 the program and identify and report the errors, by category;  
4 resulting from that survey.

5 (3) The department shall report in writing to the Governor, the  
6 Chair of the Joint Legislative Budget Committee, the chairs of the  
7 fiscal committees for both houses of the Legislature, and the  
8 Department of Finance, information regarding the error rate study  
9 by April 1, 2005. The report shall include, but not be limited to,  
10 all of the following:

11 (A) The results of the error rate study.

12 (B) Fraud and overpayment reduction targets that have been  
13 established based on the data from the error rate study.

14 (C) The timeframe for achieving the targets.

15 (D) Recommendations developed pursuant to subdivision (b).

16 (b) The department shall develop recommendations for the  
17 prevention and elimination of child care fraud and programmatic  
18 errors and the identification and collection of child care  
19 overpayments. The recommendations shall include, but not be  
20 limited to:

21 (1) Precise definitions of what constitutes child care fraud and  
22 overpayments.

23 (2) A consistent statewide system to identify fraud and  
24 overpayments.

25 (3) A consistent statewide system of standards for fraud  
26 prevention, intervention, and overpayment collection that is applied  
27 to all child care program provider categories.

28 (4) Statewide fraud and overpayment measures that will be  
29 reported annually by the department.

30 (5) Standards for independent financial compliance audits,  
31 including provisions to ensure that small programs are not unduly  
32 burdened.

33 (6) Consistent statewide mechanisms for due process for parents.

34 (7) Consistent statewide mechanisms for dispute resolution for  
35 child care programs and providers.

36 (8) Assessment of the cost-effectiveness of prevention and  
37 intervention activities.

38 (9) Equitable treatment of all consumers of subsidized child  
39 care.

1     ~~(10) Consideration of the need to minimize new barriers to~~  
2     ~~family access to child care.~~

3     ~~(11) A survey of best practices from both California agencies~~  
4     ~~and providers and from other states.~~

5     ~~(e) In developing its recommendations, the department shall~~  
6     ~~place priority on prevention of fraud and overpayments, and shall~~  
7     ~~consider existing best practices for doing so. The department shall~~  
8     ~~make any identified best practices available on its Web site by~~  
9     ~~March 1, 2005.~~

10    ~~(d) The department shall consult with representatives of the~~  
11    ~~State Department of Social Services, the Legislative Analyst's~~  
12    ~~Office, the Department of Finance, staff from the appropriate policy~~  
13    ~~and fiscal committees of each house of the Legislature, and other~~  
14    ~~interested parties including, but not limited to, child care consumers~~  
15    ~~and providers, representatives from county welfare departments,~~  
16    ~~district attorneys, county special investigative units, and legal~~  
17    ~~advocacy organizations representing consumers in developing~~  
18    ~~these recommendations.~~

19    ~~(e) The department shall report its recommendations directly~~  
20    ~~to the respective policy and fiscal committees of the Legislature~~  
21    ~~by April 1, 2005.~~

22    ~~(f)~~  
23    8385. On or after July 1, 2005, all child care contracts entered  
24    into by the ~~State Department of Education~~ *department* for  
25    means-tested child care programs, including, but not limited to,  
26    the programs described in Article 3 (commencing with Section  
27    8220), Article 8 (commencing with Section 8240), and Article  
28    15.5 (commencing with Section 8350), shall require  
29    implementation of best practices identified pursuant to subdivision  
30    ~~(e).~~